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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
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9 Nia Elan Davis,

10 Plaintiff,

11 v.

12 American Airlines, et al.,

13 Defendants.  
14

No. CV-25-01992-PHX-KML

**ORDER**

15 Plaintiff Nia Elan Davis believes her employer defendant American Airlines  
16 discriminated against her based on her age and race. Davis also believes American Airlines  
17 retaliated against her, subjected her to a hostile work environment, engaged in “unlawful  
18 labor practices,” and intentionally inflicted emotional distress. (Doc. 26.) American  
19 Airlines moved to dismissed and Davis did not respond. The motion to dismiss is granted.

20 Davis filed her original complaint on June 9, 2025. (Doc. 1.) That complaint named  
21 as defendants American Airlines and Teamsters Local Union 104. Davis never served  
22 Teamsters and her claims against Teamsters were dismissed based on that failure. (Doc.  
23 28.) Davis served American Airlines and on October 3, 2025, American Airlines filed a  
24 “Rule 12(b)(6) Motion to Dismiss.” (Doc. 27.) Davis’s response was due October 20, 2025,  
25 but no response was filed.

26 Local Rule 7.2(i) provides that failure to respond to a motion to dismiss “may be  
27 deemed a consent to the . . . granting of the motion and the Court may dispose of the motion  
28 summarily.” The time to respond to American Airlines’s motion has expired and, pursuant

1 to Local Rule 7.2(i), it is granted. But briefly looking to the merits of the motion, it would  
2 be granted regardless of the local rule.

3 American Airlines first addresses the discrimination claims Davis is attempting to  
4 bring under Title VII, arguing Davis did not exhaust with the EEOC her claims for  
5 discrimination based on age, race, hostile work environment, or “failure to prevent  
6 discrimination and harassment.” (Doc. 27 at 6–8.) The relevant charge Davis filed with the  
7 EEOC only references “retaliation.” With no opposition, American Airlines’s position is  
8 correct and Davis only exhausted her retaliation claim. All of Davis’s other Title VII claims  
9 are dismissed for failure to exhaust.

10 American Airlines alternatively argues that even assuming Davis had exhausted all  
11 of her Title VII claims, the current complaint does not contain sufficient factual allegations  
12 to support those claims. That is correct. Davis has not alleged basic requirements for most  
13 of her Title VII claims, such as the adverse employment action at issue. Nor has Davis  
14 alleged facts showing a “severe or pervasive” work environment that might qualify as a  
15 hostile work environment. Similarly, Davis has not alleged facts meeting the high standard  
16 for an intentional infliction of emotional distress claim against one’s employer.<sup>1</sup> *Mintz v.*  
17 *Bell Atl. Sys. Leasing Int’l, Inc.*, 905 P.2d 559, 563 (Ariz. Ct. App. 1995).

18 Finally, Davis has not alleged sufficient facts indicating a causal relationship  
19 between protected activity and subsequent events that might support a retaliation claim.  
20 Davis alleges without explanation the retaliation included a “[f]ailure to accommodate  
21 [her] in the same manner as prior to her EEOC charge,” “unequal discipline,” and  
22 “[i]gnored complaints.” (Doc. 26 at 2.) There are no additional factual allegations  
23 explaining, for example, the “unequal discipline” Davis suffered. It is not enough for Davis  
24 to allege only that “the-defendant-unlawfully-harmed-me.” *Ashcroft v. Iqbal*, 556 U.S. 662,  
25 678 (2009). Davis’s retaliation claim qualifies as a “[t]hreadbare recital[] of the elements  
26 of a cause of action, supported by mere conclusory statements.” *Id.*


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28 <sup>1</sup> American Airlines argues Davis’s claims for breach of collective bargaining agreement  
and unlawful labor practices “can only apply to the Union.” (Doc. 27 at 16.) The court  
accepts that as accurate for purposes of this order.

1 American Airlines requests the court dismiss the amended complaint without leave  
2 to amend. It is possible Davis could allege additional facts for at least some of her claims  
3 such that leave to amend would not be futile. Davis may, however, have abandoned this  
4 case, so the court sets a short deadline for the filing of an amended complaint. If no new  
5 complaint is filed, judgment will be entered.

6 **IT IS ORDERED** the Motion to Dismiss (Doc. 27) is **GRANTED**. The amended  
7 complaint (Doc. 26) is **DISMISSED WITH LEAVE TO AMEND**.

8 **IT IS FURTHER ORDERED** no later than **November 12, 2025**, plaintiff shall file  
9 an amended complaint. The Clerk of Court is directed to enter a judgment of dismissal with  
10 prejudice and close this case if no amended complaint is filed.

11 Dated this 31st day of October, 2025.

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15 **Honorable Krissa M. Lanham**  
16 **United States District Judge**  
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